

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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IN RE: JOHNSON & JOHNSON  
TALCUM POWDER PRODUCTS  
MARKETING, SALES PRACTICES AND  
PRODUCTS LIABILITY LITIGATION

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MDL Docket No. 2738

*This Document Relates To:*

*Demelia v. Johnson & Johnson,*  
Case No. 3:17-cv-10971

*Pringle v. Johnson & Johnson,*  
Case No. 3:17-cv-06766

*Smith v. Johnson & Johnson,*  
Case No. 3:17-cv-11212

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**DEFENDANTS' OPPOSITION TO PLAINTIFFS' RESPONSE TO THE  
COURT'S ORDER TO SHOW CAUSE**

## **INTRODUCTION**

Defendants Johnson & Johnson and LLT Management, LLC, oppose the Responses to the Court's Order to Show Cause filed by Plaintiffs Marylou Demelia (ECF 32863), Maryladene Pringle (ECF 32864), and Cassie Smith (ECF 32865) on June 27, 2024. These Plaintiffs have failed to provide Defendants with Court-ordered discovery for over eight months. In fact, all three Plaintiffs state in their responses that they do not desire to continue their cases. The Court should find that these Plaintiffs have not shown good cause as to why their cases should not be dismissed with prejudice.

## **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

These three Plaintiffs were originally required to provide Plaintiff Profile Forms ("PPFs") to Defendants on October 16, 2023, pursuant to the Amended Plaintiff's Profile Form Order (ECF 27291). After failing to provide Defendants with the discovery by the above noted deadline, all three Plaintiffs moved to dismiss their cases without prejudice. (*See* Case No. 3:17-cv-06766, Docs. 17; Case No. 3:17-cv-10971, Doc. 18; Case No. 3:17-cv-11212, Doc. 17). Defendants opposed all three motions. (*See* Case No. 3:17-cv-06766, Doc. 18; Case No. 3:17-cv-10971, Doc. 19; Case No. 3:17-cv-11212, Doc. 18). As a result of their failure to serve discovery, these three Plaintiffs were listed in the March 1, 2024 PPF

Report (ECF 29168) and then again in the April 1, 2024 PPF Report (ECF 30612).

Subsequently, due to their continual failure to serve Defendants with a PPF, and in accordance with the Court's Order outlining a protocol for adjudicating cases that fail to serve PPFs (ECF 29032), these three Plaintiffs were listed in the May 1, 2024 Order to Show Cause issued by the Court (ECF 32811). Plaintiffs now come before the Court in an attempt to prevent the dismissal of their cases with prejudice for their failure to provide Court-ordered discovery. Instead, they seek dismissals without prejudice apparently to evade the discovery orders of the Court and preserve their cases for another day and potentially another forum. This excuse should be rejected, and the cases dismissed with prejudice.

### **ARGUMENT**

In their responses, all three Plaintiffs state they or their families (if the Plaintiff is deceased) do not wish to proceed with their cases. *See Pringle Resp.* at 2 (ECF 32864); *Demelia Resp.*, at 2 (ECF 32863); and *Smith Resp.*, at 2 (ECF 32865). The fact that these Plaintiffs do not wish to proceed with their claims and acknowledge they will not provide the Court ordered discovery should end any argument. These admissions alone clearly justify dismissing Plaintiffs' cases with prejudice.

Instead of addressing their failure to abide by Court Orders and provide PPFs, Plaintiffs' responses attempt to rehash their Motions to Dismiss Without Prejudice previously filed and opposed by these Defendants. (*See* Case No. 3:17-cv-06766, Doc. 17-18; Case No. 3:17-cv-10971, Doc. 18-19; Case No. 3:17-cv-11212, Doc. 17-18). Plaintiffs' efforts at supplementing their arguments on their Motions to Dismiss Without Prejudice are procedurally improper, and the Court should not permit Plaintiffs to make additional argument beyond their Motions and Replies previously filed. Beyond their procedural impropriety, Plaintiffs' arguments are without merit. To the extent the Court wants to consider those arguments here, Defendants refer the Court to their original opposition briefs. (*See* Case No. 3:17-cv-06766, Doc. 18; Case No. 3:17-cv-10971, Doc. 19; Case No. 3:17-cv-11212, Doc. 18).

## **CONCLUSION**

For the foregoing reasons, Defendants respectfully request the Court reject Plaintiffs' request to dismiss their cases without prejudice and rule that these Plaintiffs have not shown good cause as to why their cases should not be dismissed with prejudice.

Dated: July 3, 2024

Respectfully submitted,

/s/ Susan M. Sharko

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